

78B-6-812 Order of restitution -- Service -- Enforcement -- Disposition of personal property -- Hearing.

(1) Each order of restitution shall:

- (a) direct the defendant to vacate the premises, remove the defendant's personal property, and restore possession of the premises to the plaintiff, or be forcibly removed by a sheriff or constable;
- (b) advise the defendant of the time limit set by the court for the defendant to vacate the premises, which shall be three calendar days following service of the order, unless the court determines that a longer or shorter period is appropriate under the circumstances; and
- (c) advise the defendant of the defendant's right to a hearing to contest the manner of its enforcement.

(2)

- (a) A copy of the order of restitution and a form for the defendant to request a hearing as listed on the form shall be served in accordance with Section 78B-6-805 by a person authorized to serve process pursuant to Subsection 78B-8-302(1). If personal service is impossible or impracticable, service may be made by:
 - (i) mailing a copy of the order and the form by first class mail to the defendant's last-known address and posting a copy of the order and the form at a conspicuous place on the premises; or
 - (ii) mailing a copy of the order and the form to the commercial tenant defendant's last-known place of business and posting a copy of the order and the form at a conspicuous place on the business premises.
- (b) A request for hearing by the defendant may not stay enforcement of the restitution order unless:
 - (i) the defendant furnishes a corporate bond, cash bond, certified funds, or a property bond to the clerk of the court in an amount approved by the court according to the formula set forth in Subsection 78B-6-808(4)(b); and
 - (ii) the court orders that the restitution order be stayed.
- (c) The date of service, the name, title, signature, and telephone number of the person serving the order and the form shall be legibly endorsed on the copy of the order and the form served on the defendant.
- (d) The person serving the order and the form shall file proof of service in accordance with Rule 4(e), Utah Rules of Civil Procedure.

(3)

- (a) If the defendant fails to comply with the order within the time prescribed by the court, a sheriff or constable at the plaintiff's direction may enter the premises by force using the least destructive means possible to remove the defendant.
- (b) Personal property of the defendant may be removed from the premises by the sheriff or constable and transported to a suitable location for safe storage. The sheriff or constable may delegate responsibility for inventory, moving, and storage to the plaintiff, who shall store the personal property in a suitable place and in a reasonable manner.
- (c) A tenant may not access the property until the removal and storage costs have been paid in full, except that the tenant shall be provided reasonable access within five business days to retrieve:
 - (i) clothing;
 - (ii) identification;
 - (iii) financial documents, including all those related to the tenant's immigration status, employment status;

- (iv) documents pertaining to receipt of public services; and
- (v) medical information, prescription medications, and any medical equipment required for maintenance of medical needs.
- (d) The personal property removed and stored shall, after 15 calendar days, be considered abandoned property and subject to Section 78B-6-816.
- (4) In the event of a dispute concerning the manner of enforcement of the restitution order, the defendant may file a request for a hearing. The court shall set the matter for hearing within 10 calendar days from the filing of the request, or as soon thereafter as practicable, and shall mail notice of the hearing to the parties.
- (5) The Judicial Council shall draft the forms necessary to implement this section.

Amended by Chapter 206, 2013 General Session